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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/054,057

01/22/2002

Frederick S.M. Herz

REFH-0153

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EXAMINER

KESACK, DANIEL

ART UNIT

PAPER NUMBER

3691

MAIL DATE

DELIVERY MODE

05/18/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: FREDERICK S.M. HERZ, LYLE H. UNGAR, JASON M.
EISNER and WALTER PAUL LABYS

Application No. 10/054,057
Technology Center 3600

Mailed: May 15, 2009

Before QUITA S. GOULD *Supervisory Paralegal Specialist, Review Team*
GOULD, *Supervisory Paralegal Specialist, Review Team.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on May 5, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

REQUEST TO REOPEN PROSECUTION

The review of the file finds that the Appellant's reply filed February 9, 2009 is an Amendment filed under 37 CFR 1.111, which addresses the New Grounds of Rejection in the Examiner's Answer filed December 9, 2008. In accordance with 37 CFR 1.111, Appellant is requesting that prosecution be reopened.

A review of the file finds there is no evidence on the record indicating that the Examiner has addressed the Request to Reopen Prosecution.

CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) to consider the Request to Reopen Prosecution, and;
- 2) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

QG/kmm

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